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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/743,852	12/22/2003	Rocco Dean Gagliotti	PC25547A	9086
28940	7590	10/31/2006	EXAMINER	
PFIZER INC 10555 SCIENCE CENTER DRIVE SAN DIEGO, CA 92121			COLEMAN, BRENDA LIBBY	
			ART UNIT	PAPER NUMBER
			1624	

DATE MAILED: 10/31/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/743,852	GOGLIOTTI ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Brenda L. Coleman	1624	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 30 August 2006.
- 2a) This action is FINAL.                  2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-14,22 and 23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-14,22 and 23 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application |
|  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

Claims 1-14, 22 and 23 are pending in the application.

This action is in response to applicants' amendment dated August 30, 2006.

Claims 1-5, 7, 8, 10-12, 14 and 23 have been amended and claims 15-21 have been canceled.

### ***Response to Arguments***

Applicant's arguments filed August 30, 2006 have been fully considered with the following effect:

1. The applicants' amendments are arguments sufficient to overcome the 35 U.S.C. § 112, first paragraph rejection labeled paragraph 2) of the last office action, which is hereby **withdrawn**.
2. The applicants' amendments are arguments sufficient to overcome the 35 U.S.C. § 112, second paragraph rejections labeled paragraph 3) of the last office action, which are hereby **withdrawn**.
3. The applicants' amendments and arguments are sufficient to overcome the 35 U.S.C. § 102, anticipation rejection labeled paragraph 4) of the last office action, which is hereby **withdrawn**.
4. The applicants' amendments and arguments are sufficient to overcome the 35 U.S.C. § 102, anticipation rejection labeled paragraph 5) of the last office action, which is hereby **withdrawn**.

5. With regards to the 35 U.S.C. § 103, obviousness rejection as being unpatentable over RUCKLE et al., U.S. Patent Application Publication 2004/0092561, the applicants amendments and remarks have been fully considered but they are not found persuasive. The applicants stated that Ruckle et al. U.S. 2004/0092561 was published on May 13, 2004 and the instant application claims priority to U.S. provisional application No. 60/435,227, filed on December 20, 2002. However, it is the filing date under the provisions of 102(e) November 7, 2002 for which the reference is being applied under 35 U.S.C. § 103.

Claims 1-14, 2 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ruckle et al., U.S. Patent Application Publication 2004/0092561, for reasons of record and stated above.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brenda L. Coleman whose telephone number is 571-272-0665. The examiner can normally be reached on 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James O. Wilson can be reached on 571-272-0661. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Brenda L. Coleman  
Primary Examiner Art Unit 1624  
October 27, 2006